

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 18

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte EDWARD J. PITTARELLI

Appeal No. 1999-0292
Application No. 08/771,885

ON BRIEF

Before KRASS, JERRY SMITH, and FLEMING, Administrative Patent Judges.

KRASS, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the final rejection of claims 21-29. Claims 12-20 have been withdrawn as being directed to a nonelected invention.

The invention is directed to a system for providing public information and services utilizing stand-alone computers, in

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public kiosks, and central servers to permit users to interact with remote information and service providers.

Representative independent claim 21 is reproduced as follows:

21. An information distribution system comprising a plurality of information systems associated with respective ones of different services,

at least one centralized server, and

a plurality of public kiosks disposed in different public places each operable for interacting with a user to permit the user to select one of said different services, and operable, responsive to a user entering such a selection, for unloading from associated memory information associated with the selected service and presenting the unloaded information to said user and operable, responsive to the user entering a particular request, for establishing a multimedia-video telecommunications connection between the user and a representative of the selected one of said different services,

and further operable for forwarding the user's selection to said at least one centralized server if said information is not stored in said memory, each of said public kiosks being connected to said at least one centralized server via a communications network, and wherein

said at least one centralized server being operable for then downloading via said network and information to the kiosk at which said user is located for storage thereat and presentation to the user and for periodically downloading to each of said kiosks for storage thereat changes to user selectable information associated with a respective one of said different services.

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The examiner relies on the following references:

Ahlin et al. (Ahlin)	5,321,840	Jun. 14, 1994
Katz	5,495,284	Feb. 27, 1996
Kawan et al. (Kawan)	5,572,572	Nov. 05, 1996

Claims 21-29 stand rejected under 35 U.S.C. 103. As evidence of obviousness, the examiner cites Ahlin with regard to claims 21-28, adding Katz with regard to claim 29.

Reference is made to the brief and answer for the respective positions of appellant and the examiner.

OPINION

We affirm.

In our view, the instant claimed subject matter is so broad that the examiner's application of Ahlin presents a prima facie case of obviousness. The examiner points out that Figure 1 of Ahlin discloses an information distribution system having a plurality of information systems, a centralized server, 8, and a plurality of devices, 2, 10 for permitting user interaction requesting one of selected services, 20a-20d.

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The examiner explains away the claimed differences as an obvious design choice or "common knowledge." Thus, the examiner recognizes that Ahlin does not disclose the "public kiosks" claimed but explains that whether the terminals are in the privacy of a home or made public, are just matters of design choice as to where the terminals are located. We agree.

Appellant argues that Ahlin's terminals are designed for home use, but offers no convincing argument as to why it wouldn't have been obvious to extend that teaching to public locations. In fact, the background of Ahlin's disclosure indicates that whereas banking had theretofore been done at public ATM machines, Ahlin wants to allow for home banking. Accordingly, Ahlin's own disclosure (in addition to the Kawans reference incorporated by reference therein) indicates that access terminals may be either public or private.

Appellant also argues that the configuration of Ahlin's apparatus changes when the application changes so that the host computer reconfigures the Ahlins terminal. We find nothing in the instant claims which precludes any such "reconfiguration" by Ahlin nor is it clear to us as to what claim limitations are being relied upon in this argument.

Appellant further argues that the Ahlins terminal is not "self-serving" in the sense that any requested information must be obtained from the service provider. We find nothing in the instant claims which precludes such an arrangement. While appellant may intend to have as much information as possible stored at the site of the kiosk, even appellant's invention provides for obtaining requested information from the service provider when the information is not available from the local memory.

Appellant also argues that an "appropriate interface" needed to access a particular service provider is not stored in the Ahlins terminal and must be downloaded from the host to the terminal. Again, we do not see how this is precluded by the instant claim language as appellant has not pointed to any particular claim language on which he relies.

Appellant argues that the claims call for a "multimedia-video telecommunications connection" and that Ahlin is not capable of providing such a connection. The examiner recognized this lack of teaching by Ahlin. However, as pointed out by the examiner, the advances in the art since the time of Ahlin's invention have caused the claimed communications data and network differences to have been well known to artisans by the time of

the instant invention. By stating (answer, page 6) that "at the time of the invention, the network Internet accessing in combination with the network video conferencing was well known and commonly utilized in the art" and that (Paper No. 11-page 5) the "video conference technique is widely utilized," the examiner has taken Official notice of these things and appellant has not challenged such Official notice. Appellant's mere argument that the reference does not disclose the "wide area network" of the instant invention is not persuasive to overcome the examiner's prima facie case in view of the examiner's explanation of Official notice and appellant's lack of challenge to the examiner's allegation.

Appellant also argues, at page 6 of the brief, that, with regard to claims 25 and 26, Ahlin does not disclose updated information distributed to the servers. With regard to the wide area network being an ISDN network, as recited in claim 25, the examiner has taken Official notice that such networks were known prior to the claimed invention and that artisans would have been expected to know of such networks for use in communicating between a terminal and a server. Since appellant has not challenged the examiner's allegation of ISDN being known, we will sustain the examiner's position. With regard to updated

information being distributed to the servers, as per claim 26, the artisan would have recognized that the information in the data bases of servers must be periodically updated so that the requested information is current. Such updated information at the servers will be downloaded to the terminals in Ahlin when such information is requested by a user.

At page 7 of the brief, appellant contends that it would be "unfathomable how one skilled in the art not having prior knowledge of the claimed invention would even think of changing the architecture of the Ahlin apparatus so that [it] operates in the claimed way." Appellant is clearly reading the claims much more narrowly than the claim language would require. While we understand the differences between the instant invention and that disclosed by Ahlin, the invention, *as claimed*, would have been obvious, within the meaning of 35 U.S.C. 103. The architecture of the Ahlin apparatus would not have to be changed in any non-obvious manner in order to meet the instant claimed subject matter.

With regard to the claimed "wide area network," appellant concedes (brief-page 8) that the Ahlin apparatus "could be used indirectly in a wide area network" but contends that Ahlin has no teaching or suggestion that the apparatus may be connected

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directly to a wide area network. By "indirectly," appellant means that the wide area network would be an element in the telephone connection between Ahlin's apparatus and the centralized host. Assuming, arguendo, the correctness of appellant's position, we find nothing in the instant claim language that would preclude the application of Ahlin's system "indirectly" in a wide area network.

As to claim 29, wherein the examiner relies on Katz, for the teaching of video conferencing apparatus, in addition to Ahlin, appellant agrees that Katz discloses a video conferencing apparatus but argues that Katz requires a "scheduling means" for scheduling the establishment of a video conference connection whereas the instant claimed invention does not require such scheduling. Our review of instant claim 29 reveals nothing which would preclude the scheduling arrangement of Katz. The claim includes only a very broad recitation of access including a video connection wherein each kiosk includes video apparatus to support a video connection. Once again, appellant's arguments are not commensurate with the scope of the instant claims and, hence, the arguments are unconvincing.

The examiner's decision rejecting claims 21-29 under 35 U.S.C. 103 is affirmed.

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No time period for taking any subsequent action in
connection with this appeal may be extended under
37 CFR § 1.136(a).

AFFIRMED

ERROL A. KRASS)	
Administrative Patent Judge)	
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JERRY SMITH)	BOARD OF PATENT
Administrative Patent Judge)	APPEALS AND
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MICHAEL R. FLEMING)	
Administrative Patent Judge)	

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DOCKET ADMINISTRATOR
LUCENT TECHNOLOGIES INC
600 MOUNTAIN AVE
P.O. BOX 636
MURRAY HILL, NC 07974-0636